

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Norfolk Division**

**UNITED STATES OF AMERICA**

**v.**

**CASE NO. 2:16cr36**

**GERALD ANDREW DARBY,**

**Defendant.**

**JOINT MOTION TO CONTINUE TRIAL**

Comes now the defendant and United States by and through undersigned counsel, and moves this court to continue the trial scheduled in the above-styled case on June 14, 2016 at 10:00 am. In support of this motion the parties submit the following:

- A. The case before the court involves novel questions of both law and fact that relate to the use of the network investigative technique ("NIT").
- B. The parties have submitted numerous and lengthy briefs on a significant number of issues that are the subject of litigation in multiple federal districts, resulting in a body of persuasive law that changes on a regular basis.
- C. The technical information at issue in this case is the subject of disagreement between the parties and resolution by the court will involve the review and testimony of expert witnesses.
- D. In addition to technical issues surrounding the NIT, there are significant novel legal issues surrounding the United States' claim of privilege related to the NIT.

Given the novelty of the factual basis for the case, the significant and novel legal issues presented by this factual scenario, the existence of ongoing litigation in multiple districts related to this case, and the need for expert evaluation of the technical items in this

case, the parties submit that this case is complex, that additional time is necessary for the defense to review the evidence and prepare for trial and that the Speedy Trial date should be extended. Accordingly, the parties move this court for a continuance of the trial as the ends of justice outweigh the rights of the defendant and the public to a speedy trial.

Respectfully submitted,

GERALD A. DARBY

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And

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**CERTIFICATE OF SERVICE**

I certify that on the 7<sup>th</sup> day of June, 2016, I will electronically file the foregoing with the Clerk of Court using the CM/ECF system, which will send a notification of such filing (NEF) to the following:

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